

CALIFORNIA COASTAL COMMISSION

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Filed: 11/29/00
49th Day: 1/17/00
180th Day: Waived
Staff: AJP-LB
Staff Report: 2/25/01
Hearing Date: 3/12/01

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STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE AND DE NOVO HEARING
for A-5-MDR-00-472

LOCAL GOVERNMENT: County of Los Angeles

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-MDR-00-472

APPLICANT: Marina Pacific Associates

PROJECT LOCATION: 4400 and 4500 via Marina, Marina del Rey, County of Los Angeles

PROJECT DESCRIPTION: Demolition of an administration building and construction of one 120 unit, 60-foot tall apartment building (72 one-bedroom and 48 two-bedroom units; four residential stories over two levels of parking) with appurtenant office administration (leasing) and fitness center facilities on Parcel 112, Marina del Rey ; phased renovation of the 846 existing apartment units on Parcels 111 and 112, including improvement to the exterior "hardscape" and landscape of the developed parcels; construction of a public promenade along the seawall bulkhead of Parcels 111 and 112, including an approximately 4,500 square foot public viewing park at the eastern corner of Parcel 112, adjacent to the main channel; and realignment of Bora Bora Way approximately 60 feet to the north of its current intersection with Via Marina to facilitate construction of the proposed apartment building.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that **a substantial issue exists** with respect to the grounds on which the appeal has been filed because the project approved by the County is not consistent with Coastal Act policies regarding public access (see Motion, page 5).

Staff further recommends that the Commission, after a public de novo hearing, approve the permit, with special conditions set forth in the staff report. As conditioned the proposed

development will be consistent with the access and resource policies of the LCPA and the Coastal Act (see Motion page 19).

APPELLANTS: California Coastal Commissioners Sara Wan & Cecilia Estolano; Coalition to Save the Marina Inc.

SUBSTANTIVE FILE DOCUMENTS:

1. Marina del Rey certified Local Coastal Plan, 1995.

STAFF NOTE:

Although the project described in the County Notice of Decision included development seaward of the bulkhead, in the Commission's retained jurisdiction, only the Commission, not the County, can issue Coastal Development Permits (CDP's) for water side development. Under its authority as a local government, the County has jurisdiction as landowner, and as administrator of other land use laws to issue permits other than Coastal Development Permits. However, since the County-issued Coastal Development Permit cannot include development seaward of the bulkhead, that proposed development is not included in the project description in this appeal and is not approved by this permit.

I. APPEAL PROCEDURES

After certification of a local coastal program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on Coastal Development Permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea, or within three hundred feet of the inland extent of any beach, mean high tide line, or the top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not the designated "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. [Coastal Act Section 30603(a)].

The County of Los Angeles' Marina del Rey LCP was certified on May 10, 1995. The County approval of the proposed project is appealable because the project is located between the sea and the first public road paralleling the sea and is also located within tidelands.

Section 30603(a) of the Coastal Act identifies which types of development are appealable. Section 30603(a) states, in part:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:*
 - (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.*
 - (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.*

The grounds for appeal of an approved local Coastal Development Permit in the appealable area are stated in Section 30603(b)(1), which states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the Commission is deemed to have found that the appeal raises a substantial issue, and the Commission will proceed to the de novo public hearing on the merits of the project.

The de novo hearing will be scheduled at the same hearing or a subsequent Commission hearing. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that any approved project is consistent with the public access and

recreation policies of the Coastal Act. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project.

II. APPELLANTS' CONTENTIONS

The County approval of the proposed development was appealed on November 29, 2000, by two appellants. The project was appealed by the California Coastal Commissioners Sara Wan and Cecilia Estolano; and by the Coalition to Save the Marina Inc. (John Davis). The appellants contend that the proposed development is not consistent with the access policies of the Coastal Act and does not conform to the requirements of the Local Coastal Program.

The appeal by the California Coastal Commission contends that:

1. The County's submittal does not include a traffic analysis to support their finding that the project will not generate additional traffic trips and therefore, traffic mitigation is not necessary. Transportation fees are required under the certified LCP, as mitigation to off-set any impacts new projects generate. These fees are used for traffic improvements in and around the Marina. Traffic increases generated by new development, if not properly mitigated, could have an adverse impact on the public's ability to access the beach in and around the Marina. Based on the information provided, it can not be determine whether there will or will not be traffic impacts and if mitigation is necessary.
2. The certified LCP requires that new development provide view corridors from adjacent public streets. The width of required view corridors on the parcel increases with the height of the proposed development. The County's findings indicate that the project will reduce the existing view corridor along Via Marina (public street) by approximately 18 feet. As proposed the view corridor comprises the existing street, rather than a percentage of the parcel to be developed as required in the certified LCP. The County's findings state that the view corridor through Bora Bora Way will actually be improved by the proposed realignment and straightening of the road which will improve

the line of sight. Furthermore, according to the County's findings, the viewing area lost will be compensated for by the proposed view park at the end of Bora Bora Way.

The County has not provided a view analysis that would support the finding that the views would be improved and that the view park is an appropriate alternative that would adequately compensate for the potential loss of views from Via Marina. The loss of 18 feet of viewing area could have an adverse impact on pedestrians' and motorists' ability to view the marina from Via Marina.

The appeal by Coalition to Save the Marina Inc. contends:

1. Non-compliance with Coastal Act Sections 3001.5c, 30210, 30211, 30212, and 30252.
2. Non-compliance with Section 65590 Planning and Zoning law
3. Non-compliance with Public resources Code Sections 2690-2699.6
4. California Environmental Quality Act violations
5. National Environmental Protection Act violations

III. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **a substantial issue exists** with respect to the County's approval of the project with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to Public Resources Code Section 30625(b)(1).

MOTION: Staff recommends a **NO** vote on the following motion:

I move that the Commission determine that Appeal No. A-5-MDR-00-472 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed.

A majority of the Commissioners present is required to pass the motion.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Area History

The applicant proposes the demolition of an existing administration building, construction of one 120 unit, 60-foot tall apartment building (72 one-bedroom and 48 two-bedroom units; four residential stories over two levels of parking) with appurtenant office administration (leasing) and fitness center facilities on Parcel 112; phased renovation of 240 existing apartment units on Parcels 111 and 606 apartment units on Parcel 112, including improvement to the exterior “hardscape” and landscape of the developed parcels; construction of a public promenade along the seawall bulkhead of Parcels 111 and 112, including an approximately 4,500 square foot public viewing park at the eastern corner of Parcel 112, adjacent to the main channel; and realignment of Bora Bora Way approximately 60 feet to the north of its current intersection with Via Marina to facilitate construction of the proposed apartment building. The project includes converting 18 units, within the existing apartment buildings on Parcel 112, to low-income senior citizen units.

As part of the projects mitigation requirements, the applicant will conduct leak tests, as required by the California Department of Conservation's Division of Oil, Gas and Geothermal Resources for two existing abandoned oil wells located on Parcels 111 and Parcel 112.

Parcels 111 and 112 are located along Bora Bora Way, Tahiti Way, and Via Marina, in the southwest portion of Marina del Rey. Via Marina is the marina loop road that provides vehicle and pedestrian access around the marina and connects to the mole roads. Parcel 111 fronts along Via Marina, between Bora Bora and Tahiti Way, and along approximately 1,650 feet of Tahiti Way where it abuts a separate mole end parcel. Parcel 112 is located adjacent to Via Marina, and extends along the full length of Bora Bora Way. Both parcels are developed. Unlike many mole parcels, the Bora Bora Way mole is developed with the apartments in the center of the mole and the road located adjacent to the bulkhead. The mole road provides minimum unimpeded public access, although a significant amount of the Marina and apartment parking is also located along the mole road.

B. Area wide Description

Marina del Rey covers approximately 807 acres of land and water in the County of Los Angeles (see Exhibit No. 1-3). Marina del Rey is located between the coastal communities of Venice and Playa Del Rey. The Marina is owned by the County and operated by the Department of Beaches and Harbors.

The existing Marina began its development in 1962 when the dredging of the inland basin was completed. The primary use of the Marina is recreational boating. The marina provides approximately 5,923 boating berths. Other boating facilities include transient docks, a public launching ramp, repair yards, charter and rental boats, harbor tours, and sailing instructions.

Other recreational facilities include: Burton W. Chase Park, Admiralty Park, a public beach and picnic area, bicycle trail, and limited pedestrian access along the marina bulkheads and north jetty promenade.

Along with the recreational facilities the Marina is developed with multi-family residential projects, hotels, restaurants, commercial, retail and office development.

Within the Marina, most structural improvements have been made by private entrepreneurs, operating under long-term land leases. These leases were awarded by open competitive bids in the early and mid 1960's. The developers were required to construct improvements on unimproved parcels in conformance with authorized uses designated in their leases and pursuant to a master plan for the Marina. Most leases will expire after 2020.

Within the existing Marina development has occurred on all but one leasehold parcel. This development is generally referred to as Phase I development. Recycling, intensification, or conversion of these initial uses on leased parcels is referred to as Phase II development.

C. Local Coastal Program Background

In 1984, the Commission certified the County's Land Use Plan portion of the Marina del Rey/Ballona segment of the County of Los Angeles Local Coastal Program. Subsequent to the Commission's certification, the City of Los Angeles annexed over 525 acres of undeveloped land, which was a portion of the County's LCP area located south of Ballona Creek and east of Lincoln Boulevard (known as Area B and C). Subsequent to the City's annexation, the City submitted the identical Land Use Plan (the Playa Vista segment of the City's Local Coastal Program) covering the City's portion of the original County LCP area. The Commission certified the Land Use Plan Amendment for the annexed area with suggested modifications on December 9, 1986. The County also resubmitted those portions of their previously certified LUP that applied to areas still under County jurisdiction, including the area known as Area "A", and the existing Marina. The Commission certified the County of Los Angeles' revised Marina del Rey land Use Plan on December 9, 1986.

On September 12, 1990, the Commission certified an Implementation Program pertaining to the existing marina, with suggested modifications. The undeveloped area in the County, Playa Vista Area "A" was segmented from the marina and no ordinances were certified for the area. After accepting the suggested modifications, the Commission effectively certified the Marina del Rey LCP and the County assumed permit issuing authority.

In 1995, the County submitted an amendment to the LCP. In May 1995, the Commission certified the LCPA with suggested modifications. The County accepted the modifications and the LCP was effectively certified. The revised 1995 LCP represented a major change in the county's approach to Marina del Rey development. Abandoning the bowl concept, which

limited height on moles and next to the water, the County presented the Commission with a redevelopment plan that allowed greatly increased heights if and when developers provided view corridors over no less than 20% of the parcel. Increased height would be contingent on the provision of increased views. Secondly, the County agreed that at the time of renegotiations on of the leases, the lessees would be required to reserve a 18 foot wide promenade /fire road along the water that would be open to the public.

D. DESCRIPTION OF LOCAL APPROVAL

On October 18, 2000, the County of Los Angeles Regional Planning Commission approved a coastal development permit, with conditions, associated with land-side redevelopment on Parcels 111 and 112, and phased replacement of the existing Parcel 111 and Parcel 112 "Basin A" anchorage (see Exhibit No. 6). Parcel 111 is currently developed with a total of nine apartment buildings (240 apartment units) and 1,700 square feet of commercial use (laundry and coffee shop). Parcel 112 is currently developed with a total of seven apartment buildings (606 apartment units) and 4,031 square feet of commercial office space leased by the applicant to outside firms.

The action by the Planning Commission was appealable to the County's Board of Supervisors. However, no appeals were filed with the Board and notice of the County's final action was received by the Coastal Commission's South Coast District office on November 13, 2000.

E. SUBSTANTIAL ISSUE ANALYSIS

Section 30603(a)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the Commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., tit. 14, section

13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City raises a substantial issue with regard to the appellants' contentions regarding coastal resources.

1. Appellants' Contentions that Raise a Substantial Issue

The contentions raised in the appeal present valid grounds for appeal in that they allege the project's inconsistency with the access policies of the Coastal Act and the Commission finds that a substantial issue is raised.

As stated above, two separate appellants have filed appeals. The appeals are analyzed by policy groups, although each contention is treated separately. Listed below are the appellants' contentions that address access policies of the Coastal Act:

a) Access/Traffic

The appellants contend that the project raises a substantial issue regarding consistency with the public access policies of the Coastal Act. Non-conformance with the public access policies of the Coastal Act provides valid grounds for appeal pursuant to Section 30603(b)(1) of the Coastal Act.

Section 30211.

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

Section 30212.5.

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30252.

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

i) Appeal by the Commission contends:

1. The County, in its findings, indicates that the project will not generate additional traffic trips since the project will be eliminating 271 boat slips and a 4,031 square foot office commercial building. Therefore, since the project will not generate additional traffic trips, the County concludes that transportation fees, which are used to mitigate traffic impacts, are not required for the proposed project since there are no traffic impacts. The County's record does not include a traffic analysis to support their finding that the project will not generate additional traffic

trips. Therefore, based on the information provided, it can not be determine whether there will or will not be traffic impacts and if mitigation is necessary.

ii) The appeal by Coalition to Save the Marina Inc. contends:

Non-compliance with Coastal Act Sections 30210, 30211, 30212, 30252 and 3001.5c.

iii) Discussion of Public Access

The Coastal Act requires that development maintain and enhance public access to the coast by assuring that development occurs in areas that can accommodate it and by reserving capacity on access routes for recreational traffic.

The appellants contend that the information provided is not sufficient to conclude that the proposed project will not generate additional traffic trips. The County's record indicates that the applicant is proposing to reduce the number of boat slips by 271 and eliminate 4,031 square feet of commercial office space. Therefore, the County asserts, that the project would result in a net reduction in traffic trips.

However, based on the record submitted by the County, the County relied on a one-page letter, and attached table submitted by the applicant's consulting traffic engineer, to determine the trip generation of the proposed expansion (see Exhibit No.7). The letter concluded that there would be a net decrease in trips compared with the current trips during the 24-hour period and both peak hours.

It appears that the one page analysis was based on standard trip generation assumptions. However, the analysis does not provide or reference the basis for these assumptions or explain why it was determined to be appropriate to use trip generation assumptions for these uses in this particular area. Furthermore, the estimated trip generation in the table does not indicate whether the vehicle trip peak is calculated for weekday or for weekend traffic. Such information is important for analyzing a project's potential impact on traffic and beach access in this area. Without such information a finding that the project is consistent with the access policies of the Coastal Act can not be made.

Furthermore, the County's record indicates that the vehicle trip analysis included the proposed reduction in boat slips. The conclusion that the project would not generate additional vehicle trips relies on the boat slip reduction. However, all waterside development, i.e. boat slip reconfiguration or reduction, is within the Commission's permit jurisdiction and the County's coastal permit approval can not include the boat slips. The applicant has not yet submitted a complete application for the boat slip replacements. Therefore, until the Commission acts on the permit for the waterside development accurate vehicle trip calculations can not be made,

and the calculation for the project that is before the Commission-- the 120 unit apartment--, can not include the boat slip reduction. Therefore, traffic analysis should be based solely on the landside portion of the proposed development.

Transportation fees are required under the certified LCP, as mitigation to offset any impacts that new projects generate. These fees are used for traffic improvements in and around the Marina. Traffic increases generated by new development, if not properly mitigated, could have an adverse impact on the public's ability to access the beach in and around the Marina by contributing to the congestion of the roadway system and exacerbating access difficulties to public recreational areas.

Therefore, based on the information provided, it can not be determined that there will not be adverse traffic impacts to public access and no mitigation necessary. Therefore, the appellant's contentions do raise a substantial issue with respect to the public access provisions of the Coastal Act.

2. Appellants' Contentions that Do Not Raise a Substantial Issue

a) Public Views

In part, the appellants contend that the development does not protect public views from public roads and is inconsistent with the policies of the certified LCP. The certified LCP requires that new development provide view corridors from adjacent public streets. Section 22.46.1060(E)(2) states:

View Corridor Requirements. Parcels located between the water and the first public road shall provide a view corridor allowing uninterrupted views of the harbor from the road to the waterside, at ground level. The design, location and feasibility of view corridors shall be determined by the Director and shall be based on the distance from the first public road to the bulkhead, the parcel's land use category, configuration and the intensity of development allowed by the Specific Plan.

a. Where a view corridor is physically feasible, the optimum width of such a view corridor shall be a minimum of 20 percent of the water frontage of the site.

b. Where the Director finds an alternate method for providing a view corridor, the Director may apply credit toward the view corridor percentage standards.

c. Where the Director finds that a view corridor cannot be physically located anywhere on the parcel to provide a view of the harbor from the road, the Director may waive the requirement.

3. View Corridor Standards. View corridors shall be maintained so as to provide an unobstructed view of the bulkhead edge, masts and horizon for pedestrians and passing motorists. Unobstructed views are defined as views with no

inhibition of visual access to the water. Parking lots may be depressed below grade such that views are possible over parked vehicles; the Director shall determine whether a parking lot designed as such warrants credit toward the view corridor requirement. A depression of two feet below grade shall be the minimum considered for view corridor credit through a parking lot. Additionally, landscaping shall be placed and maintained so as not to obstruct water views. Where the Director finds that such combination is appropriate, view corridors shall be combined with vertical accessways.

The LCPA defines view corridors as:

an area located between the water and the first public road open to the sky and allowing uninterrupted views of the harbor from the road to the waterside, at ground level. The corridor may be combined with fire roads and public accessways.

The intent of the view corridor requirement is to provide increased public views from the first public road on parcels that are proposed for development or redevelopment. The proposed project consists of two separate parcels: Parcel 111 and 112 (see Exhibit No. 4). On Parcel 111 the applicant is proposing to renovate the existing nine apartment buildings (240 units), including improvements to the exterior “hardscape” and landscape of the developed parcel; and construction of a public promenade along the seawall bulkhead of Parcels 111. No existing buildings will be demolished and no new buildings will be constructed on parcel 111.

On Parcel 112 the applicant proposes to demolish an existing commercial building and construct 120- apartment units, renovate the existing seven apartment buildings (606 units), construct a public promenade along the seawall bulkhead and view park along the eastern end of the parcel (see Exhibit No. 5).

Existing views of the marina and water on Parcel 111 are available from Via Marina and Tahiti Way. The nine existing apartment buildings are located between Via Marina and Tahiti Way and the water. Views are limited due to proximity of the buildings to one another and landscaping between the buildings. Of the approximately 2,125 linear feet of bulkhead frontage, approximately 439 feet (21%) is available as views through eight separate view corridors from the two roads. Furthermore, there is currently no public promenade between the buildings and the bulkhead, therefore, the public has no access and viewing opportunities along the bulkhead.

On Parcel 112, because Bora Bora Way is adjacent to the bulkhead and development is located inland of the road, public views of the marina and water are provided along Bora Bora Way. Public views along Via Marina, however, are limited due to the existing alignment of the road and landscaping that interferes with public views.

On parcel 111, since no new buildings are proposed that would impact public views from the public roads (Via Marina and Tahiti Way), additional view corridors are not required. However, the project includes realigning Bora Bora Way, by moving the intersection approximately 60 feet north across parcel 111 (see Exhibit No. 5a). The realignment will require the removal of a section of a surface parking lot, which contributes to the area for the view corridor. This realignment will reduce the width of the view corridor by 18 feet, according to the County. However, the County's record, which includes existing site plans and photographs of the area, indicates that views from Via Marina through Bora Bora Way are virtually blocked by existing vegetation (large mature trees).

The County's findings state the proposed project will enhance views from Via Marina through the realignment, which will result in a more direct line of sight from Via Marina to the water, and through the re-landscaping of the area, which will open the area up and provide unobstructed views. The redesign of the roadway will relocate the majority of the parking spaces currently located within the view corridor, and at street level, to outside of the view corridor. The 7 to 8 spaces remaining in the new realigned view corridor will be depressed 2 to 4 feet below Via Marina, consistent with the LCP requirements. To ensure that the views are enhanced from Via Marina and its view corridor the County has required the applicant, as a condition of the permit, to provide landscaping plans that will maintain all view corridors so as to provide an unobstructed view of the bulkhead edge, masts and horizon for pedestrians and motorists. The condition also requires that the applicant maintain the landscaping so as not to obstruct water views.

Furthermore, on parcel 111, the applicant is maintaining the existing view corridors from the public streets that are located throughout the parcel along Via Marina and Tahiti Way. The existing view corridors, not including Bora Bora Way, amount to 21% of the parcel's water frontage (see Exhibit No. 5b). Under the LCP policy, if the parcel was being redeveloped, the minimum view corridor width would be 20 percent.

On Parcel 112, the applicant is proposing the demolition of an existing structure and construction of a 120-unit apartment complex, along with renovation of existing apartments and access improvements. On this site, because the applicant is proposing a new structure, the provision of a view corridor must be considered. The LCP states that parcels located between the water and the first public road shall provide a view corridor from the road to the waterside. On this particular site, however, the first public road (Bora Bora Way) is located between the water and the parcel (on most other mole roads, the developable parcels are located between the road and water). The parcel fronts on Bora Bora Way and backs up against existing development on an adjacent parcel. Therefore, public views are from and along Bora Bora Way and development on parcel 112 will not adversely impact views to the water. As stated, a view corridor as defined by the LCPA is an area located between the water and the first public road open to the sky and allowing uninterrupted views of the harbor from the road to the waterside, at ground level. The corridor may be combined with fire

roads and public accessways. Therefore, the County found that since the development on parcel 112 would not impact views from Bora Bora Way, an additional view corridor is irrelevant and is not required.

Furthermore, the applicant is proposing to provide a 4,800 square foot view park, with 147 lineal feet of water frontage, at the eastern end of the parcel and at the end of Bora Bora Way (see Exhibit No. 5d). Under the certified LCP, a 500 square foot view park is required as an access improvement on parcel 112. The proposed park will provide additional viewing opportunities for pedestrians and motorists along Bora Bora Way.

The LCP allows the County the discretion to determine if view corridors are physically feasible and practical for each parcel. On parcel 111 the County found that the view corridor will be reduced by 18 feet but views will be enhanced over the present obstructed views by improving the sight line and re-landscaping. Moreover, parcel 111 will maintain the remaining view corridors found throughout the parcel. On parcel 112 the County found that the proposed development did not adversely impact public views from the first public road and that the applicant will enhance public views through the proposed pedestrian walkway and the proposed view park. The Commission concurs with the County's analysis and finds that the approved project, as conditioned, will not adversely impact public views and is consistent with the view policies of the certified LCP. Therefore, the proposed project does not raise a substantial issue with respect to views.

b) Hazards

The appellant asserts that the project is in non-compliance with Public Resources Code Sections 2690-2699.6. Public Resources Code Section 2690-2699.6 refers to the Seismic Hazards Mapping Act and geologic analysis needed to address seismic hazards.

Under the Hazard Areas chapter of the LCPA, policy e.2. states that:

Future development shall be based on thorough site specific geologic and soils studies, including specific geotechnical studies related to mitigation of liquefaction and lateral spreading.

The LCPA further states, that no potentially active earthquake fault traverses the marina, however, potential geologic hazards could result from seismic activity in surrounding areas. Hazards include ground shaking and liquefaction. Section 22.46.1180 (A)(4) requires that all new development over three stories be designed to withstand a seismic event with a ground acceleration of no less than 0.5 g, unless a reliable geologic survey indicates otherwise.

The applicant prepared a geotechnical engineering report and submitted it to the County. The report addresses the potential hazards, including the presence of faults, earthshaking and liquefaction, and makes recommendations to mitigate all potential geologic hazards. The report concludes that construction of the proposed project is feasible from a geotechnical engineering standpoint provided the recommendations are incorporated into the final design plans. The County incorporated conditions into the permit to ensure that the project conformed with the recommendations of the report and with County requirements.

According to the geotechnical report, peak ground accelerations at the site were estimated using a deterministic method and a computer program (EQFAULT ver. 2.2 developed by T.W. Blake. The average maximum credible site acceleration using attenuation relationships was estimated at 0.36g. Using probabilistic graphs for an exposure period of 50 years and for an event having a 10 percent probability of exceedance, the average ground acceleration is 0.38g. Based on this analysis a peak ground acceleration of 0.38g, which results from a 7.2 magnitude earthquake, was used for the liquefaction and ground deformation analyses. Based on the geotechnical analyses that was prepared for the project and reviewed by the County's Department of Public Works, the County accepted the use of geotechnical report's peak ground acceleration figure of 0.38g, consistent with the LCP. The County found that the information in the geologic report regarding ground acceleration was adequate and that using a ground acceleration of .38g rather than 0.5g was appropriate for this project given the location and size of the building.

The report concluded that construction of the proposed project is feasible from a geotechnical engineering standpoint provided the recommendations are incorporated into the design plans. Recommendations include removing fill and disturbed alluvium and replacing it with compacted fill; use of mat foundations to spread the weight of the building and concentrated foundation loads uniformly to the soil; design of floor slabs and concrete decking; drainage, and waterproofing. These measures will minimize the risks of seismic hazards at the site.

The project will minimize the seismic risks at the site and complies with the LCP standards for withstanding seismic events. Therefore, the appellant's contention does not raise a substantial issue with respect with the standards of the LCP or the access policies of the Coastal Act.

C. Conclusion for Contentions Raising Issues of Conformance with the Coastal Act Access Policies or on the Policies of the Certified LCP

The Commission finds that the proposed development conforms with the visual access and view corridor policies of the certified local coastal program and not substantial issue exists with the contentions that raise those issues. However, the Commission finds that substantial issues exist with respect to the approved project's conformance with the

access policies of the Coastal Act, with regard to traffic mitigation. Therefore, appeal No. A-5-MDR-00-472 raises a substantial issue with respect to the grounds on which the appeals have been filed with regards to the access policies of the Coastal Act.

3. Issues Raised by Appellants that do not Address the Approved Project's Inconsistency with the certified LCP or Access Policies of the Coastal Act

As stated, the grounds for an appeal are limited to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. The contentions listed below do not address any grounds for appeal with respect to the LCP or Access policies of the Coastal Act.

The appeal by Coalition to Save the Marina Inc. contends:

a. Non-compliance with Section 65590 Planning and Zoning Law

Section 65590 of the Planning and Zoning Law addresses the provision of low and moderate income housing within the Coastal Zone for local governments. It provides that local government must require low and moderate cost units located in the coastal zone that are displaced by development to be replaced within 5 miles of the coastal zone. It specifically removes the Commission from its enforcement. The Commission cannot use its regulatory power to enforce the provisions of 65590. Local government, in carrying out its provisions, is acting under a mandate that is the responsibility of another agency, the Department of Housing and Community Development. Because of this feature of 65590, the certified LCP does not require the provision of low and moderate income housing, which cannot be required under the Coastal Act. The County does have a density incentive, in its LCP, which is a separate issue and is permissive, not obligatory. The density incentive also carries out a state housing law enforced by Department of Housing and Community Development.

The Coastal Commission, in short, cannot enforce the mandates of other agencies. Therefore this contention does not address standards of the LCP or the public access policies of the Coastal Act. Therefore, the appellant's contention does not raise a valid ground for appeal with respect with the standards of the LCP or the access policies of the Coastal Act.

b. California Environmental Quality Act violations.

All Coastal Development Permits issued by Los Angeles County must comply with the applicable provisions of the California Environmental Quality Act (CEQA). Application requirements, as listed under Section 22.56.2310(l) of the County's Implementation ordinance, states that all applications must contain indication of other permits and approvals including the California Environmental Quality Act. Furthermore, the County's LCP ordinance, Appendix D, states in part that:

Individual development projects are not exempt from CEQA requirements. These projects must complete an initial study to determine if an Environmental Impact report is required.

The County conducted an initial study in compliance with the State CEQA guidelines and the environmental reporting procedures of the County of Los Angeles. Based on that study, the County issued a Mitigated Negative Declaration for the project. The Mitigated Negative Declaration stated that the proposed project may exceed established threshold criteria. However, the applicant agreed to modifications to mitigate any significant impacts bringing all potential impacts to a level of insignificance. One of the project's impacts that will be mitigated are the potential impacts of the two existing abandoned oil wells located on-site. As mitigation, to reduce the impact of the wells to a level of insignificance, the county required the applicant to check for leaks to ensure that the wells do not pose a potential hazard and to report to the California Division of Oil, Gas, and Geothermal Resources.

Because this contention includes no specific discussion with respect to the project's non-compliance with CEQA and does not address standards of the LCP or the public access policies of the Coastal Act, the Commission finds that the contention does not raise a valid ground for appeal with respect with the standards of the LCP or the access policies of the Coastal Act.

c. National Environmental Protection Act violations

The National Environmental Protection Act (NEPA) requires federal agencies to consider environmental values and factors in agency planning and decision-making. In this case, the only area that would involve a federal agency would be development within the water. The Federal Agency that would be involved with the waterside development would be the Army Corps of Engineers (ACOE). This application does not include any development within the water. If the applicant submits an application that involves development within the water, the applicant will need to apply to the ACOE.

Furthermore, the Commission has no jurisdiction with regards to NEPA requirements and cannot delay action on a permit on grounds on non-compliance with NEPA. This contention does not address standards of the LCP or the public access policies of the Coastal Act. Therefore, the appellant's contention does not raise a valid ground for appeal with respect with the standards of the LCP or the access policies of the Coastal Act.

IV. STAFF RECOMMENDATION ON THE DE NOVO HEARING

Staff recommends that the Commission adopt the following:

**I. MOTION, STAFF RECOMMENDATION AND RESOLUTION
FOR A-5-MDR-00-472:**

Staff recommends that the Commission make the following motion and adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit #A-5-MDR-00-472 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a local coastal program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/ or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternative that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Mitigation of Cumulative and Direct Traffic Impacts on Public Access

Prior to the issuance of coastal development permit A-5-MDR-00-472, the applicant shall submit for the review and approval of the Executive Director, evidence of payment of no less than \$5,690 per peak hour trip generated by the proposed development into the trust fund accounts established by the County of Los Angeles Department of Public Works. The funds shall be allocated as follows: a) \$1,592 per peak hour trip into the Transportation Improvement Program (TIP) as identified in Appendix G of the certified LCPA; and b) \$4,098 per peak hour trip into a fund specifically allocated for mitigation of the applicant's proportional share of the cumulative impacts of Marina development on the sub-regional transportation system (Category 3 improvements in the certified LCPA). Evidence of compliance shall be accompanied by TIP calculations based on the project that the Commission has approved. The Executive Director may consider this and any related Commission action on the boat docks in considering the appropriate fee. Said calculations shall be carried out consistent with the standards of the certified LCPA.

2. Transportation Demand Management, Transportation System Management Program

Prior to the issuance of coastal development permit A-5-MDR-00-472, the applicant shall submit for the review and approval of the Executive Director, letters of concurrence from the Directors of the Los Angeles County Departments of Public Works and Regional Planning, stating that the applicant's Transportation System Management Plan (TND/TSM) conforms with current County standards for traffic reduction (TSM/TDM) plans and the certified LCPA.

3. Parking Plans

Prior to the issuance of coastal development permit A-5-MDR-00-472, the applicant shall submit a plan that demonstrates that, in a worst case scenario, that the applicant will have adequate parking, based on current County parking requirements, to support the existing number of boat slips in it's current configuration (allowing a reduction due to current County design and American Disability Act requirements). The plan shall include a parking plan showing: a) all existing parking on the parcels and designated use (i.e., boater parking, tenant/guest parking, etc.) of all parking spaces; b) parking for proposed development without change to existing boater parking; c) parking for proposed development with potential maximum increase in boater parking demand.

Reconstructed slips shall be expected to provide parking according to current County standards and no "grandfathering" shall be permitted, if calculations show that current slips do not comply with current parking standards or in the event that there is insufficient parking shown, the number of new dwelling units shall be commensurately reduced until the parking can comply with the standards of this condition.

4. Boater Parking

Prior to the issuance of coastal development permit A-5-MDR-00-472, the applicant shall submit for the review and approval of the Executive Director, written agreement indicating that the current boater parking supply shall be maintained at its current number (366 spaces) to support the existing 590 boat slips. Any change to the number of parking spaces will require an amendment to this permit or authorization in a different coastal development permit issued by the Commission.

5. Minimum View Park Hours

The hours for public use of the View Park shall allow public use of the park and parking area at a minimum between the hours of 7:00 a.m. to 10:00 p.m. Any change to the hours shall require an amendment to this permit.

6. View Corridor

A. Prior to the issuance of coastal development permit A-5-MDR-00-472, the applicant agree indicating that the view corridor, at the intersection of Via Marina and Bora Bora Way, as generally depicted in Exhibit 5c, shall be maintained so as to provide an unobstructed view of the bulkhead edge, masts and horizon for pedestrians and passing motorists and pedestrians. The view corridor shall be maintained according to the following: a) unobstructed views are defined as views with no inhibition of visual access to the water; b) Parking lots depressed no less than two feet

below grade, such that views are possible over parked vehicles may be considered as view corridors; and c) landscaping shall be placed and maintained so as not to obstruct water views.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant, Marina Pacific Associates, shall execute and record a lease here and elsewhere restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The lease restriction shall include a legal description of the applicant's entire parcel. The lease restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This lease restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

7. Signage Program

Prior to the issuance of coastal development permit A-5-MDR-00-472, the applicant shall submit for the review and approval of the Executive Director, signage plans providing the following:

- a) The signage plan shall include signs identifying public accessways and the View Park installed at the entrance of Bora Bora Way at Via Marina and along the proposed public pedestrian promenade. The signs along the promenade shall be placed at conspicuous locations and reasonable intervals along the walkway identifying the promenade as public.
- b) Signage shall be placed at the proposed View Park identifying the park as public. If hours of use are enforced the hours shall be included on the sign. Such hours shall be consistent with or no more restrictive than the hours listed in condition no. 5.
- c) Signage shall be placed at the parking area for the View Park designating at least 10 parking spaces for public parking.
- d) Tenant/guest parking. Signage shall be placed throughout the parcel where tenant/guest parking is available, that indicates that parking is available for public parking.

The signage program shall include location, text and timing of installations of signs and identification and removal of any signs that are not in conformance with the approved parking program. The signs shall be large enough to be seen by the public. They shall be placed where they and the text is legible from Via Marina and other public streets

and walkways outside of the project. The sign plan shall be consistent with the County's Design Control Board sign design standards and include approval by the Design Control Board.

8. Assumption of Risk Lease Restriction

A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from landslides and soil erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant, Marina Pacific Associates, shall execute and record a lease restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The lease restriction shall include a legal description of the applicant's entire parcel. The lease restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This lease restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

9. Water Quality

Prior to the issuance of coastal development permit A-5-MDR-00-472, the applicant shall submit for the review and approval of the Executive Director, a drainage and polluted runoff control plan for the on-site roadways, turnouts, and parking areas. The plan shall be prepared by a licensed civil engineer and shall employ all feasible, best management practices to minimize the volume, velocity and pollutant load of stormwater leaving the developed areas of the site. The plan shall include, but not be limited to, the following criteria:

(a) Post-development peak runoff rates and average volumes shall not exceed pre-development conditions.

(b) Runoff from all parking areas, turnouts, and driveways shall be collected and directed through a system of vegetated and/or gravel filter strips or other media filter devices. The filter elements shall be designed to 1) accommodate a storm in the 85% of normal storms and they shall trap sediment, particulates and other solids and 2) remove or mitigate contaminants through infiltration and/or biological uptake. The drainage system shall also be designed to convey any runoff in excess of this standard from the developed site in a non-erosive manner.

(c) The plan shall include provisions for maintaining the drainage and filtration systems so that they are functional throughout the life of the approved development. Such maintenance shall include the following: (1) the drainage and filtration system shall be inspected, cleaned and repaired prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system and restoration of the eroded area.

10. Conformance of Design and Construction Plans to Geotechnical Report

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the geotechnical Engineering Reports prepared by The J. Byer Group, Inc., dated December 23, 1999. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriate licensed professional, and the County's engineer, has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

11. Oil well Abandonment Approval

Prior to the issuance of coastal development permit A-5-MDR-00-472, the applicant shall submit, for the review and approval of the Executive Director, a final review and approval letter from the California Department of Conservation's Division of Oil,

Gas, and Geothermal Resources, indicating that the applicant has complied with all requirements with regards to oil well abandonment. If additional work to the abandoned oil wells is required, the applicant shall notify the Executive Director, to determine if an amendment to the permit is required.

12. Future Development Lease Restriction

- A. This permit is only for the development described in coastal development permit No.A-5-MDR-00-472. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(b) shall not apply to the entire parcel, generally depicted in Exhibit No. 5. Accordingly, any future improvements to the permitted development, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), which are proposed within the restricted area, including signs, gates and fences not shown on approved final approved plans, shall require an amendment to Permit No. A-5-MDR-00-472 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a lease restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development in the restricted area. The lease restriction shall include legal descriptions of both the applicant's entire parcel and each of the restricted lots. The lease restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This lease restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

13. Landscaping

Prior to the issuance of coastal development permit A-5-MDR-00-472, the applicant shall submit for the review and approval of the Executive Director, a landscaping plan indicating the following:

- 1) Landscaping along Bora Bora Way and Via Marina, shall consist of drought tolerant, low growing plant material that does not exceed the height permitted in the view corridor policies of the certified LCPA. and shall not interfere with the viewshed from the intersection of Bora Bora Way and Via Marina to the water. Species of plants with wind-borne seed that have been shown to be invasive shall not be used.
- 2) Landscaping consistent with the approved plans shall be installed concurrent with construction of the approved development consistent with the view corridor and public access standards required in the LCPA.
- 3) Landscaping shall be continuously maintained to protect public views for the life of the project.

14. Archaeological Resources

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall agree in writing, subject to the review and approval of the Executive Director, to the following:

A. Curation Facility.

1. Artifacts collected as a result of this project shall be curated at a qualified curation facility, such as the Los Angeles County Museum of Natural History. A qualified curation facility is one that meets the State Office of Historic Preservation Guidelines for Curation of Archaeological Collections.
2. Prior to completion of archaeological work at the site the applicant shall submit, for the review and approval of the Executive Director, evidence that:
 - (a) the curation facility meets the State Office of Historic Preservation Guidelines for Curation of Archaeological Collections; and
 - (b) evidence of the facility's willingness to accept the collection.

3. If no qualified curation facility is available at the time the project is complete, an amendment to this permit shall be required to determine the appropriate curation process.

B. Review of Treatment Plan.

In the event that cultural resources are discovered and a Treatment Plan (mitigation plan) is prepared, the Treatment Plan shall be submitted to the Executive Director for review and approval. Based on the mitigation procedures outlined in the Treatment Plan, the Executive Director will determine if an amendment to this permit is required.

15. Fire Safety Standards

Prior to issuance of the coastal development permit, the applicant shall provide for the review and approval of the Executive Director, letters and/or plan signatures executed by the Los Angeles County Fire Department showing the Department's concurrence that the applicant's plans conform with all fire safety requirement found in the certified LCP, including the provision of sprinklers, the adequacy of emergency access, height, and participation in all safety districts.

16. Public Works/Public Services

Prior to issuance of the coastal development permit, the applicant shall provide for the review and approval of the Executive Director, a letter from the Department of Public Works, stating that the applicant complies with all requirements of water availability, sewer service and utility service of the certified LCP and conditional use permit number 99-39-(4).

17. Lease Amendment

Prior to the issuance of coastal development permit A-5-MDR-00-472, the applicant shall submit for the review and approval of the Executive Director, evidence that its lease with the underlying landowner, Los Angeles County Beaches and Harbors, has been amended to include reference to the Coastal Development Permit No. A-5-MDR-00-472 and all public access requirements of the LCPA. The amended lease shall incorporate all provisions of this permit.

IV. FINDINGS AND DECLARATIONS FOR ED NOVO HEARING

The Commission hereby finds and declares as follows:

A. Project Description and Location

The applicant proposes the demolition of an existing administration building, construction of one 120 unit, 60-foot tall apartment building (72 one-bedroom and 48 two-bedroom units; four residential stories over two levels of parking) with appurtenant office administration (leasing) and fitness center facilities on Parcel 112; phased renovation of 846 existing apartment units on Parcels 111 and 112, including improvement to the exterior “hardscape” and landscape of the developed parcels; construction of a public promenade along the seawall bulkhead of Parcels 111 and 112, including conversion of approximately 4,500 square feet of private open space, parking area and driveway, located at the eastern corner of Parcel 112 adjacent to the main channel, to a view park. The project includes converting 18 units, within the existing apartment buildings on Parcel 112, to low-income senior citizen units.

The project also includes the realignment of Bora Bora Way approximately 60 feet to the north of its current intersection with Via Marina to facilitate construction of the proposed apartment building. The realignment will eliminate 66 at-grade parking spaces. Forty-one spaces will be replaced on-site. Twenty-five spaces not replaced are utilized by the commercial office uses of the administration building, which will not be replaced.

As part of the projects mitigation requirements, the applicant will conduct leak tests, as required by the California Department of Conservation’s Division of Oil, Gas and Geothermal Resources for two existing abandoned oil wells located on Parcels 111 and Parcel 112.

The County also approved the phased replacement and reconfiguration of the existing Marina Harbor Anchorage, resulting in the elimination of 271 existing boat slips and replacement of 319 existing boat aging slips. However, all waterside development (i.e. boat slips) is located within the Commission’s original permit jurisdiction. Coastal permit authority within this area is solely with the Commission. The County included the boat slips in the description because the development was proposed as one development and the County concurrently issued other discretionary approvals. A separate application for the removal of the existing boat slips and construction of new slips will be required to be submitted to the Commission.

The project site consists of two contiguous parcels: Parcels 111 and 112. The Parcels are located along Bora Bora Way, Tahiti Way, and Via Marina, in the southwest portion of Marina del Rey. Parcel 111 consists of 9.3 acres and Parcel 112 consists of 15.9 acres for a total of 25.2 acres. Parcel 111 occupies land that fronts on Tahiti Way and Via Marina adjacent to Basin A of the small craft harbor. Parcel 112 occupies land that fronts on Bora Bora Way and Via Marina adjacent to Basin A and the main channel of the small craft harbor.

Currently, Parcel 111 is developed with a total of nine apartment buildings (240 apartment units and 1,700 square feet of commercial use (laundry and coffee shop) and 528 parking spaces. Parcel 112 is currently developed with a total of seven apartment buildings (606 apartment units) and 4,031 square feet of commercial office space leased by the applicant to outside firms, and 1,484 parking spaces. In addition, of the total parking on each Parcel, Parcel 111 provides 112 boater parking spaces. Parcel 112 provides 254 boater parking spaces.

The existing land use designation for both Parcels 111 and 112 is as follows:

Parcel 111: Residential III (on mole portion)—Residential V (on non-mole portion), Water, Water Overlay Zone.

Parcel 112 Residential V, Water, Waterfront Overlay Zone.

According to the LCPA, the Residential V land use category for Parcel 112, where the proposed new structure is proposed, permits high density multi-family residential development up to 75 dwelling units per acre and a height of 225 feet.

Furthermore, the LCPA also limits the maximum number of new residential units to 610 for the Bora Bora Development Zone. The marina is divided into 12 Development Zones for purposes of allocating future development potential in the marina.

With development of the proposed 120-unit apartment building, Parcel 112 would contain a total of 718 apartment units. Based on the 15.9 acres and the total number of units, the maximum permitted density for parcel 112 is 1,192 dwelling units. Therefore, the proposed project is within the allowable maximum number of units permitted within the Development Zone and with the density requirements for the Residential V zoning.

Commission staff has received a number of letters from the public regarding the proposed development. The letters are attached as Exhibit No. 8.

B. Traffic/Circulation

All projects requiring a coastal development permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act. Section 30210 states that maximum access and recreational opportunities shall be provided to protect public rights:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states in part:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by providing adequate parking facilities.

Section 30211 and 30252 of the Coastal Act emphasizes that development should protect access to the coast by preserving the availability of access routes and parking facilities. Congestion of access routes to this area has been an issue in many past Commission permit actions.

The 1995 certified LCP addresses traffic impacts on internal (marina) and on external (subregional) roads. The LCPA provides that the cumulative impacts of all development allowed in the Marina not reduce automobile access on roads leading to the coast. The method chosen to do this is to require that all development pay its fair and reasonable share into a two traffic mitigation funds, one for traffic improvements within the Marina and one for traffic improvements to regional collector streets outside of the marina (the sub-regional system).

The 1995 certified LCPA addresses mitigation of external (subregional) traffic impacts in the following manner: 1) development in the Marina must pay its fair share of regional traffic improvements to mitigate offsite and cumulative impacts, 2) traffic mitigation measures must be integrated with the coastal development permit process, and 3) no more than half the development in the Marina will be permitted to proceed without mitigating subregional traffic impacts while the County negotiates with Caltrans and the City of Los Angeles concerning

routes and funding for highway improvements. Before development generating over half of the approved external trips may go forward, agreement on routes for actual subregional improvements must have occurred and funding for those improvements must be in place.

The Marina's internal circulation system consists of two main components. First, two secondary highways - Admiralty Way on the east and north, and Via Marina on the West - serve as the main collector roads within the Marina. Second, a number of local streets provide access to the waterfront along mole roads, including Fiji Way, Mindanao Way and Bali Way on the east side, and Tahiti Way, Marquesas Way, Panay Way on the west side. Development caps in the development zone policies of the certified LCPA limit potential development to the capacity of these streets. The capacity is based on the street capacity after completion of the improvements listed as Category 1 in the certified LCP.

Traffic generated by increasing the intensity of the site will impact access to the coast by adding traffic to the already congested roadway system. Additional traffic generated by new development will contribute to the congestion of the road system, which will cause travel delays and access difficulties to public recreational areas that are accessed by the congested roadways. Due to the increase traffic congestion, the public may avoid the beaches and recreational areas found in the area and go to more easily accessible beaches and recreational areas, which may overburden those areas.

The following 1995 certified LCPA policies are relevant:

22.46.1190 90 Conditions of Approval. A. The following conditions shall be imposed, where applicable, for development in Marina del Rey.

5. Mitigation of all Direct Traffic Impacts. Development in existing Marina del Rey shall participate in, and contribute his or her fair share to, funding of the mitigation measures described in the Transportation Improvement Program (TIP). The fees shall be calculated for every development project based on the Trip Assessment Fee set in the TIP and the number of additional P.M. peak hour trips generated by the project.

6. All proposed mitigation measures including, but not limited to, providing public access, establishing view, or wind corridors, preserving of sunlight on the beaches parks and boat slip areas and participating in the funding of park improvements or of traffic mitigation measures shall be made conditions of approval. The applicant shall modify the design of the development to the extent necessary to comply with such conditions.

15. All development shall contribute its fair and proportionate share of necessary mitigation of the development's impacts on the subregional transportation program as determined in item 22.46.1180..A.10 above.

a. Threshold. Mitigation measures are required if a) An intersection is projected to operate at a mid-range level of service D (or volume to capacity (V/C) ratio of 0.85) as a result of the project's impacts, or b) intersections within the project's area of influence are already operating at a level of service above 0.85, and the project will result in a projected increase of 0.01 above anticipated ambient conditions.

b. Recommendations on mitigation requirements. If the Department of Public Works determines that mitigation is required, the department with input from the Department of Transportation and Caltrans shall determine the type of mitigation measures most appropriate to the specific project. The Department shall specifically determine how much an appropriate or projected mitigation measure would reduce the impacts of the project's daily and peak hour trips on the subregional transportation system, and shall submit a recommendation on a preferred mitigation measure or mitigation requirement. If a "fair share amount mitigation," is determined to be the appropriate mitigation measure, the Department shall determine the applicant's proportionate fair share of the project to which the mitigation will apply, and the construction schedule of the suggested improvement, and shall submit a recommendation on a preferred mitigation requirement. The types of mitigation measures available to satisfy this requirements are listed in subsection g.

c. Available Traffic mitigation measures:

- Category 3 improvements listed in the Transportation Improvement Program, found in Appendix G to this Specific Plan.*
- Reduction of traffic trips as may be accomplished through participation in transportation system management and transportation demand management programs cited in Appendix G to this Specific Plan.*
- Reduction of traffic trips as may be accomplished through reduction in project size.*
- Payment of an in lieu fee or "fair share" amount of a mitigation project where a fair share amount of the mitigation requirement has been determined, the project has been scheduled for construction and the cost and benefits of the project have been determined.*
- Other mitigation measure(s) mutually acceptable to the Department of Public Works, the Department of Transportation and Caltrans.*

d. Timely submittal of Required studies and Evaluations. The studies, analysis and evaluations require by this subsection 10 shall be required to be completed before filing a coastal development permit application with the Department of Regional Planning. If the applicant requests that the traffic study be evaluated during the environmental review process, the applicant's coastal development permit shall not be filed or accepted until such time as the traffic study has been completed to the satisfaction of the Department of Transportation. If the applicant requests a direct contribution to an existing subregional mitigation fund, information regarding that fund and the applicant's agreement to contribute a fair share mitigation fee to that fund shall be provided at the time a traffic study would have otherwise been required.

e. Mitigation. All development must fully mitigate all significant daily and peak- hour adverse traffic impacts.

3. To fully mitigate traffic impacts, new developments are required to establish a functional Transportation Systems Management (TSM)/Transportation Demand Management (TDM) program, or to participate in an existing TSM/TDM program. ...Viable TSM/TDM possibilities include, but shall not be limited to:

- Carpools ...*
- Increase use of bicycles for transportation*
- Bicycle racks, lockers at places of employment*

4. All development must conform to the phasing schedules in the certified local coastal program. The phasing schedules include requirements for the existing marina, circulation and public recreation improvements and infrastructure. No development shall occur if traffic capacity within the system will not be adequate to serve the development.

The LCPA calls for traffic and transportation improvements to accommodate traffic generated by new developments within and outside the Marina. These improvements are divided into two categories (Category I and III) according to mitigation needs, improvement phasing and funding. Category I improvements include:

*Admiralty Way five lane improvement
Advanced Signal Synchronization
Improvements at various intersections*

Category III improvements include:

*Reconfiguration of Admiralty Way and Via Marina intersection
Shuttle system*

Periphery parking lots
Lincoln People mover
Light Rail
Route 90 Extension
Other projects of regional significance.

The LCPA does not limit improvements to those listed and allows other creative transportation improvements to enhance access to the region.

Additional trips are defined as the P.M. peak hour trips attributable to buildout of the new development allocated in the Specific Plan. All development shall mitigate all direct impacts on the internal circulation system before occupancy of the development. No development may commence without payment of a fair and proportionate share of the costs of traffic improvements listed in the traffic improvement program. Prior to issuance of a coastal development permit, the applicant shall demonstrate that adequate funding is available so that all traffic improvements necessary to mitigate the impacts of the development on internal circulation will be completed before occupancy of the structure. Development shall not begin until adequate funding of the necessary internal circulation traffic improvement has been guaranteed.

With regard to internal traffic impacts, Section 22.46.1190(A) requires payment into a fund known as the Transportation Improvement Program (TIP) for purposes of internal marina road improvements. The TIP fee is established at \$1,592 per peak hour trip based on calculations found in Appendix G of the certified LCPA. Appendix G estimates the expected internal road improvements and divides that total by the total number of peak hour trips authorized in the certified LCPA. The LCPA specifies developer fees of \$1,592 per p.m. peak hour trip to fund the Category I improvements and \$4,098 to fund the Category III improvements. The total fees amount to \$5,690 per p.m. peak hour trip.

That fee was derived by investigating a comparable amount established by the City of Los Angeles in its Coastal Corridor Fund. This fund includes both traffic improvements adjacent to a proposed development and projected improvements to streets and intersections in the subregion. The County's mitigated Negative Declaration required the applicant to pay \$5,690 for peak period trips in order to finance road improvements. Accordingly, for internal (Marina) road improvements, an applicant's roughly fair and proportionate share fee would be \$1,592 per peak p.m. trip. In addition, an applicant would be required to pay \$4,098 per peak p.m. trip for external (subregional) road improvements.

The Commission notes that Section 22.46.1190(A) requires both payment into TIP and construction of traffic improvements to mitigate direct impacts of project. Also, 22.40.1190(5) allows payment into TIP as means of mitigating direct impacts.

According to the County the applicant prepared a traffic analysis. The County's Public Works Department of Traffic reviewed the data and subsequently approved it. The County found that based on the reduction of 271 boat slips, elimination of 4,031 square feet of commercial office space, and the 120 new residential units, the project would not generate any additional peak-hour trips. The County concluded, that the new development of 120 new apartment units would have no impact on the internal circulation system or on major highways leading into and around the Marina plan area. Therefore, the County determined that Local Coastal Program transportation fees are not required.

As stated, the County's conclusion was based on the assumption that the proposed boat slip reduction would be approved as submitted to the County. However, the boat slips and all waterside development is located within the Commission's original permit jurisdiction. Coastal permit authority within this area is solely with the Commission. A separate application for the removal of the existing boat slips and construction of new slips will be required to be submitted to the Commission. Therefore, the County inappropriately included the reduction of the boat slips and decrease in vehicle trips, in their overall vehicle trip calculations for the proposed landside development.

In order to properly analyze the landside development the landside development must be reviewed independent of the waterside development. Excluding all waterside development, the proposed landside development includes the demolition of 4,031 square feet of commercial office space and construction of 120 apartment units. According to the County, and based on trip generation rates approved in the LCPA, the proposed landside development, would generate 436 new trips for the new apartments minus 63 trips for the demolition of the commercial office. The net total of peak hour traffic trips is 373.

Pursuant to the requirements of Section 22.46.1190(A)(3)(15), the applicant has submitted a study showing that the landside development will generate 373 peak hour trips. The County has determined, that the applicant's roughly proportionate fair share of both internal and external mitigation should be established at \$5,690 per peak hour trip.

The 1995 certified LCP in Section 22.46.1190(A)(3)(5)(7) and (15), requires that traffic impacts be mitigated as determined by the Department of Public Works. The applicant has not submitted any evidence of participation in a Transportation Improvement Program or subregional traffic improvement fund. Therefore, the Commission has imposed a condition requiring that the applicant shall provide evidence of payment of no less than \$5,690 per peak hour trip into accounts established by the County of Los Angeles Department of Public Works. The funds shall be allocated as follows: a) \$1,592 per peak hour trip into the Transportation Improvement Program (TIP) as identified in the Appendix G of the certified LCP; b) \$4,098 per peak hour trip into a fund specifically allocated for mitigation of the applicant's proportional share of the cumulative impacts of marina development on the sub-regional transportation system.

In order to mitigate the traffic impacts generated by the landside development, which is currently before the Commission, the applicant is required to pay into the County's traffic mitigation fund, based on the LCPA fee amounts. Based on the LCPA's TIP fee of \$5,569 and the project's landside anticipated peak vehicle trips of 373, the total trip fee payment is \$2,077,237. This amount will be consistent with the certified LCPA and ensure that traffic impacts generated by the proposed project are adequately mitigated. Therefore, as a condition of this permit, the applicant shall agree to contribute no less than \$2,077,237 into the County's traffic mitigation fund.

The applicant is proposing to submit an application to the Commission for boat slip reductions within the parcels' marina. Although it is uncertain what the Commission's action on the boat slip application will be, if the Commission ultimately approves a reduction in the boat slips and finds that the reduction will reduce the number of traffic trips generated from the parcel(s), it is feasible that the overall traffic generated by the two developments (land and waterside) would be reduced or have no net gain in traffic trips. Therefore, since the LCPA traffic mitigation fee is based on total trips for new development, the development should be allowed to be credited with any reduction in traffic trips due to the boat slip application, if subsequently approved by the Commission. If the Commission does not approve the reduction in the boat slips and the anticipated peak vehicle trips remains the same, the applicant will be required to pay the total amount. Therefore, to allow the applicant to reduce the fee if the Commission approves a boat slip reduction, which reduces the total amount of traffic trips, the special condition requiring payment of the fee will allow the applicant to reduce the total mitigation fee based on the net total vehicle trips and the LCPA's traffic mitigation fee.

In order to reduce traffic generated by the project, the LCPA requires in Section 22.46.1190(A)(3), that the applicant develop a Transportation System Management Plan. Such a plan would include bike racks, shuttle stops and car pool spaces. Therefore, the Commission is requiring special conditions that the applicant submit written evidence of participation in a Transportation System Management Plan (TDM/TSM) as required in section 22.46.1190 and appendix G of the certified LCP.

Therefore, as conditioned to mitigate cumulative traffic impacts, the Commission finds that the proposed project is consistent with the traffic and circulation provisions of the 1995 certified LCPA.

C. Parking

There are two issues that this project raises with respect to parking. The first is that the applicant has chosen to rehabilitate older structures that are deficient in parking and retain the right to the current deficiency. This is possible because rehabilitation does not require a coastal development permit (it is exempt) unless it is in fact demolition. Los Angeles

County typically considers that a project is demolition in the case of a nonconforming uses, if the development or rehabilitation represents more than 50% of the market value of the development. The county method of measuring this are not entirely clear. However, the County does have a standard and a limit after which owners on nonconforming uses are required to bring the development up to code.

The result of the applicant's decision not to rebuild is that parking will continue to be tight. The second concern is that in allowing the new development to proceed before it can consider the boating permit; the commission may have limited its choices with regard to the number and of slips that it can approve and still require slip parking consistent with LCP standards.

The applicant asserts that the actual new development more than provides for it required parking and that the existing boat slip parking will not be reduced. The existing boat slips show a slight deficient in parking, but the applicant has persuasive arguments that the total number of 590 slips will not be replaced. Finally the applicant has agreed to accept a condition to revise the final plans after the boat permit is approved so that parking will be provided for whatever number of slips are ultimately approved.

Secondly the applicant has agreed that if the county determines that the project is actually demolition and reconstruction, he will seek a new permit, that will provide parking according to current county standards for all uses.

The following 1995 certified LCPA policies are relevant:

22.46.1060C. Parking. 1.Parking standards in Marina del Rey shall be as set forth in [the zoning code] Part 11, Chapter 22.52 and Appendix 3 of this Title 22.

....

3. Development on the landside of parcels on which the waterside has been identified for additional slips under the "funnel concept" shall be evaluated with respect to the parking needs of the future slips. Landside development shall not preclude provision of parking for the future slips called out in this Specific Plan. Projects which include the development of parking garages or increased lot coverage shall provide the spaces for the slips as part of the development project.

The LCPA also allows parking permits to be issued at the county's discretion. Such permits are available for projects that were approved under different standards in the past or projects that provide senior or affordable housing.

Parcels 111 and 112 are currently developed with residential and commercial uses. Parcel 111 provides 528 on-site parking spaces and Parcel 112 provides 1,484 parking spaces for the existing uses. Because the existing uses have been existing for years and approved by the County, the existing uses and the ratio of parking provided for the uses are grandfathered

in. As stated Parcel 111 is developed with a total of nine apartment buildings (240 apartment units and 1,700 square feet of commercial use (laundry and coffee shop) and 528 parking spaces. Parcel 112 is currently developed with a total of seven apartment buildings (606 apartment units) and 4,031 square feet of commercial office space leased by the applicant to outside firms, and 1,484 parking spaces. It is not known at this time if the existing development on the two parcels is under or over parked, since the number of bedrooms, which the County bases their parking standards, is not available.

However, if the existing uses were to be demolished and the site rebuilt, parking would be required to be provided at the current standards.

In this particular case the existing residential buildings will not be demolished, but renovated through interior modifications with exterior façade improvements. The project will include the demolition of a commercial building and construction of a 120- unit apartment building with commercial space.

According to the parking standards in the certified LCPA, the proposed residential/commercial development will require 251 additional parking spaces. The breakdown is as follows:

120 units	202
25% guests	30
4,885 sq. ft. Leasing offices	<u>19</u>
Total	251

Due to the relocation of Bora Bora Way, 66 surface parking spaces will be impacted or lost. The 66 parking spaces include 25 commercial tenant spaces, 9 boater parking spaces; 8 guest/visitor spaces, and 15 spaces for leasing office.

The proposed plans indicate 17 parking spaces (including 9 replacement boater parking spaces) will be replaced on-site in the general location of the road realignment and 24 spaces will be relocated within the proposed parking structure of the residential structure. The 25 commercial tenant spaces will not be replaced since that use will not be replaced. Therefore, the total parking required based on proposed new residential/leasing office development, and required replacement parking, is 275 spaces.

The applicant is proposing 275 new spaces in support of the new apartments and commercial uses. In addition, the applicant is providing 10 public parking spaces for the proposed 4,500 square foot View Park at the end of the Mole road (Bora Bora Way). The County's parking standards for public parks require parking at a ratio of one space per half acre of park. The proposed View Park is far less than a half acre and based on the County's standard would require approximately one parking space. However, the County required that the applicant provide 10 public parking spaces for park/promenade use.

The park is located at the end of the approximately 1,500 linear foot mole road. Existing public parking in the area is located on the western side of Via Marina in a fee lot.

Based on the location of the park, which is at the end of the mole road and adjacent to the main channel, and the proposed public promenade, public parking in the area is necessary in order for the park and promenade to be accessed and used by the general public. Therefore, the provision of additional parking above the County's requirement is necessary to provide the public access and use of the public amenities. Secondly, the location of the park and the parking lot need to be indicated on signs visible from Via Marina and other public accessways. Third, the duration of daytime parking in the park lot needs to be limited to times commensurate with recreational use.

As indicated, although not part of this application, the applicant is proposing to submit an application for the redevelopment of the existing boat docks. The applicant is planning to remove 590 slips that are old and rebuild 319 new slips. According to the applicant, the slips will generally be larger in size to meet current boating demand. Parking for the existing 590 slips is located on-site on Parcels 111 and 112. There are currently 366 parking spaces allocated for boater parking, or 0.620 spaces per boat slip.

Except for the 9 boater spaces impacted, which will be replaced on-site, by the road realignment, the proposed project will not impact the existing boater parking.

The planned dock improvements will reduce the total number of boat slips from 590 to 319 slips. This reduction could result in a reduced parking demand, based on current County parking standards. Current standards require parking at .75 spaces per slip with a 10% parking reduction where the primary land use in the anchorage is residential. The anchorage currently has 590 boat slips and 366 support parking spaces. This is a ratio of .620 spaces per slip. The current parking standard for boat slips is .675 for anchorages with associated residential uses. Therefore, the existing boat slips is short of the current parking standards.

It is possible that due to the current higher parking standard than at which the existing anchorage is parked, the actual parking demand could be higher than what currently exists. There is also the possibility that the Commission will not approve the full planned reduction and only allow the applicant to rebuild the docks to current County and American Disability Act (ADA) design standards, which may result in only a slight reduction in the number of slips. If the Commission limits the slip reduction to the minimum amount necessary to meet ADA standards, using a conservative reduction figure of 10% to meet current design standards, the applicant could be limited to a reduction to only 531 from the 590 existing slips. Based on the County's parking standards, with a 10% parking reduction, permitted with residential land use, the parking demand for the boat slips would be 358 parking spaces. Therefore, since there

are currently 366 parking spaces available, the site would be able to accommodate the current number of slips (minus a 10% slip reduction due to current design requirements).

Even if additional parking were necessary to support a greater boater parking demand, the applicant has stated that through restriping and minor reconfiguring the existing parking, the site can accommodate additional parking to support the current boat slip numbers (minus the amount lost due to compliance with current design standards). Furthermore, since the project includes converting 18 existing residential units to senior citizen units, which under the LCPA parking requirements requires less parking than market rate units, additional parking would be available.

However, if the Commission approves the proposed landslide development, without any possibility for additional parking to support the existing boater use, the Commission may be placed in a position to approve the boat slip reduction to fit the existing parking supply or approve the dock improvements with the current supply. In either case, parking will not be adequate to meet the demand, which could adversely impact boater and recreational access. Therefore, although the boat slip development is not currently before the Commission, the Commission must consider the adverse impacts that the landside development will have on future boater parking demand. Therefore, since it is not known what action the Commission will take on the subsequent boat dock application, a special condition is necessary to ensure that the applicant will be able to provide adequate parking for the future redesigned boat docks. The special condition requires that the applicant demonstrate that, in a worse case scenario, that the applicant will have adequate parking, based on current County parking requirements, to support the existing number of boat slips in its current configuration (allowing a reduction due to current County design and ADA requirements), without impacting existing and proposed support parking for the other landside uses.

The future reconfiguration is not part of the proposed project and the applicant has no other lease for parking spaces. Therefore, the Commission is recommending a special condition that requires the applicant to provide a written agreement, recorded with its lease, signed by the Department of Beaches and Harbors and by itself, agreeing that in any future development of the boat slips, it will at the same time reduce the total number of slips on the property such that the parking ratio for the existing and proposed boat slips will be consistent with the requirements of the County's LCPA. Furthermore, to ensure that boater and recreational access parking remains available for boater use a special condition is necessary to ensure that all boater parking is maintained at the existing level, unless an amendment to this permit is approved.

Therefore, as conditioned to provide additional parking spaces for 76 future boat-slips and to submit a Parking Allocation Plan, the Commission finds that the proposed development is consistent with the relevant parking provisions of the 1995 certified LCPA.

D. Recreation and Visitor Serving Facilities

The Legislature has required, in the Coastal Act, that lands suitable for public recreation be designated for recreation. Development that is coastal dependent or that supports the public's use of the beaches and waters of the state is preferred over other uses. The Coastal Act recreation policies also require provision and protection of lower-cost facilities, and provision of adequate recreational land by residential uses so that new residents do not overcrowd coastal recreation areas to the exclusion of others. These policies are set forth in the following sections of the Coastal Act.

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred.

The Commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30252

The location and amount of new development should maintain and enhance public access to the coast by ... (.5.) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Relevant 1995 Certified LCPA Recreation Mitigation Requirements

22.46.1950 Coastal Improvement Fund states in part:

22.46.1950.A. Coastal Improvement Fund is established to finance construction of local park facilities in the Marina del Rey area. New park facilities will mitigate the impacts of new residential development on the regional recreational resources of the Marina and adjacent beaches. The fund will be generated by charging a fee per unit for new residential units in the existing marina....

Improvement of land for local park space will cost \$100,000 per acre. This cost includes the improvements identified in Subsection C1 of this section. The cost of improvements, therefore, is calculated at the rate of \$100,000 per acre, yielding a total cost of \$1,450,000 for improvement of 14.5 acres in the existing Marina.

The Coastal Improvement Fund fee is determined as follows: \$1,450,000 total funds needed spread over 2,420 residential units results in a cost of \$600 per dwelling unit.

22.46.1060.G Residential Mitigation requirements.

1. New residential development shall provide compensatory recreational facilities to offset local residential uses of existing marina park and recreational facilities. Where feasible, such facilities, as identified in Subsection G3 of this section, shall be provided on-site as a means of meeting this requirement. Alternatively, where an applicant demonstrates that it is not feasible to locate all, or only a portion of recreational facilities on-site, then the applicant shall contribute, on a fair and equitable basis, to a

coastal improvement fund. Senior congregate care housing is exempt from this requirement.

2. Residential Mitigation Standard. The public park land area requirement shall be based upon providing three acres of public park land for every 1,000 new residents, or portion thereof. Alternatively, a mitigation fee may satisfy the requirement. The fee shall be based upon the estimated cost of improving an equivalent amount of public park land on a public parcel within the marina. An applicant may choose to meet the requirement by providing a combination of land area and fee.

3. Mitigation Credit. On-site land area credits toward this requirement shall be given for the following facilities: clearly defined and exclusively reserved internal land area devoted to private recreation of the residents, public park land, that portion of the pedestrian promenade or view corridor not designated as a fire access road, and viewing parks at the end of the mole roads, or adjacent to the main channel.

Section 22.46.1100 (B) of the 1995 certified LCPA requires walkways with benches and access facilities along the bulkhead as noted above. The County's 1995 certified LCPA also requires that an applicant for new development participate in a Coastal Improvement Fund. This fund was established to finance construction of local park improvements within the Marina del Rey area. Because new residential development will burden existing recreational resources, this fund was created in order to mitigate adverse impacts on regional facilities. The fund was established at the cost of four acres of improvements per one thousand new residents.

The Coastal Improvement Fund provides a mechanism for the County to collect fees and or land to be used for the development of new parks and public access facilities within the existing marina. An applicant proposing residential development would be required to contribute a cost of \$600 per unit. Based on this fee the 120 unit residential development would require a fee of \$72,000.00.

The LCPA provides project credit for this required fee if public open space is incorporated into the project. Under the LCPA open space includes public access facilities, such as, bicycle paths, jogging paths, landscaping, playgrounds, and pedestrian promenades. The credit allowed is \$2.30 for every square foot of improved public open space. The applicant is providing a 4,500 square foot public View Park on Parcel 112 (under a separate development policy of the LCPA, a minimum 500 square foot public park is required on Parcel 112) and 32,000 square feet consisting of pedestrian promenade and landscaping, for a total of 36,500 square feet. Based on the total square footage, the applicant has a Coastal Improvement Fund credit of \$83,950.00. Therefore, the applicant fulfills the Coastal Improvement Fund requirements through the on-site provision of public open space.

To ensure that the park remains open for public use and time limits do not adversely impact use of the park, a special condition is necessary to require that the park is open and available for public use. The park should be available for public use between 7:00 a.m. and 10:00 p.m. Furthermore, signage shall be required designating that the park is available for public use and the times of availability, if time restrictions are enforced. As conditioned, the proposed development will be consistent with the access and recreation policies of both the Coastal Act and the relevant provisions of the 1995 certified LCPA.

E. Visual Resources

The 1995 Certified LCPA limits most waterfront development to maximum heights between 45 and 75 feet to protect views, requires implementation of a view corridor concept, and to reduce the impact of waterside fire lanes by requiring the addition of benches and other public amenities. The LCPA provides for Community-Wide Design Guidelines regarding lot coverage, landscaping, signs, height, view corridors, architectural treatment and residential recreational mitigation requirements.

The following 1995 certified LCPA policies are relevant:

22.46.1060 Community-wide Design Guidelines. Community-wide Design Guidelines concern landscaping, signs, site design and architectural treatment. These guidelines are considered to be mandatory when the word "shall" is used and are permissive when the word "may" is used.

A. Landscaping. Landscaping shall include trees and shrubbery, with adequate ground cover to protect the soil. Landscaped borders used to shield obtrusive uses shall have a minimum width of eight feet and shall consist of vegetation of sufficient density to hide the use. ...

B. Lot Coverage. Lot coverage by buildings, shall be limited as otherwise restricted in the Specific Plan, and shall not exceed 90 percent of the net lot area; a minimum of 10 percent of the net lot area shall be landscaped. Layout, components and quantity of landscaping for development in the existing Marina shall be subject to approval by the Design Control Board.

D. Signs. Signs shall be as detailed as possible without becoming unreadable. The Design Control Board specifically regulates signs in the existing Marina through the application of standards set forth in the Board's Revised Permanent Sign Controls and Regulations....

... Each land use category set out in this Specific Plan shall be subject to the sign standards for a comparable zone designated in Section 22.12.010 of this Title 22. Comparable zones shall be assigned to it according to the following chart, except that off-premise or outdoor advertising signs shall be prohibited.

E. Site Design and Architectural Treatment. Site design and architectural treatment include such elements as structural height, bulk, spacing, facade design, materials and colors.

1. Site Design. Planes of the exterior building walls should vary in depth and/or direction to avoid bulk and monotony, and should relate closely to the pedestrian promenade. Building placement and design shall avoid long, continuous blocking of water views.

2. View Corridor Requirements. Parcels located between the water and the first public road shall provide a view corridor allowing uninterrupted views of the harbor from the road to the waterside, at ground level. The design, location and feasibility of view corridors shall be determined by the Director and shall be based on the distance from the first public road to the bulkhead, the parcel's land use category, configuration and the intensity of development allowed by the Specific Plan.

a. Where a view corridor is physically feasible, the optimum width of such a view corridor shall be a minimum of 20 percent of the water frontage of the site.

b. Where the Director finds an alternate method for providing a view corridor, the Director may apply credit toward the view corridor percentage standards.

c. Where the Director finds that a view corridor cannot be physically located anywhere on the parcel to provide a view of the harbor from the road, the Director may waive the requirement.

3. View Corridor Standards. View corridors shall be maintained so as to provide an unobstructed view of the bulkhead edge, masts and horizon for pedestrians and passing motorists. Unobstructed views are defined as views with no inhibition of visual access to the water. Parking lots may be depressed below grade such that views are possible over parked vehicles; the Director shall determine whether a parking lot designed as such warrants credit toward the view corridor requirement. A depression of two feet below grade shall be the minimum considered for view corridor credit through a parking lot. Additionally, landscaping, shall be placed and maintained so as not to obstruct water views. Where the Director finds that such combination is appropriate, view corridors shall be combined with vertical accessways.

4. Architectural Treatment. Among other important objectives, good site design is essential in maintaining compatibility among adjacent land uses and preserving important public amenities such as view corridors and scenic vistas....Specific design review within the existing Marina is the responsibility of the Design Control Board of the Department of Beaches and Harbors. Its objectives are set forth in the Design Control Board's Statement of Aims and Policies, dated February 17, 1987 found in Appendix C of the certified LIP.

5. Building Height Standards. Unique site design with respect to height and setbacks is encouraged on all parcels in Marina del Rey. Heights shall be limited according to ...the development standards of each land use category and the site-specific development guidelines. Where the land use category height standards found in sections 22.46.1200 through 1690 differ from the site-specific standards found in sections 22.46.1790, such site-specific standards noted in the applicable portion of sections 22.46.1200 through 1690 shall control. ... In certain categories, the maximum height permitted is dependent on the size of the view corridor provided. Building heights in the Marina shall be restricted according to the following six categories:

a) Category 1: one story, Twenty-five (25) foot maximum.

b) Category 2: Forty-five (45) foot maximum.

c) Category 3: Forty-five (45) foot maximum when a 20% view corridor is provided ranging to a seventy-five (75) foot maximum when a 40% view corridor is provided. Height above 45 feet shall be permitted at the ratio of 1.5 feet in height for every 1% view corridor exceeding the 20%.

The subject site is located on a mole road. A mole is an artificial peninsula of fill that extends into sailing basins and provides access to docks and slips. The proposed development is separated from the water along the mole road by the road itself. The 1995 certified LPCA limits the height of structures on Parcel 112 to 225 feet in height. The new four story residential structure will be 60 feet in height and within the 225-foot height limit of the LPCA.

On Parcel 112 the applicant proposes to demolish an existing commercial building and construct 120- apartment units, construct a public promenade along the seawall bulkhead and view park along the eastern end of the parcel (see Exhibit No. 5b and e.).

On parcel 111, since no new buildings are proposed that would impact public views from the public roads (Via Marina and Tahiti Way), additional view corridors are not required. The project includes the realignment of Bora Bora Way, by moving the intersection approximately

60 feet north across parcel 111 (see Exhibit No. 5a). The realignment will require the removal of a section of a surface parking lot, which contributes to the area for the view corridor. This realignment will reduce the width of the view corridor by 18 feet, according to the County. However, the County's record, which includes existing site plans and photographs of the area, indicates that views from Via Marina through Bora Bora Way are virtually blocked by existing vegetation (large mature trees).

The County's findings state the proposed project will enhance views from Via Marina through the realignment, which will result in a more direct line of sight from Via Marina to the water, and through the re-landscaping of the area, which will open the area up and provide unobstructed views. The redesign of the roadway will relocate the majority of the parking spaces currently located within the view corridor, and at street level, to outside of the view corridor. The 7 to 8 spaces remaining in the new realigned view corridor will be depressed 2 to 4 feet below Via Marina, consistent with the LCP requirements. To ensure that the views are enhanced from Via Marina and its view corridor the County has required the applicant, as a condition of the permit, to provide landscaping plans that will maintain all view corridors so as to provide an unobstructed view of the bulkhead edge, masts and horizon for pedestrians and motorists. The condition also requires that the applicant maintain the landscaping so as not to obstruct water views.

Furthermore, on parcel 111, the applicant is maintaining the existing view corridors from the public streets that are located throughout the parcel along Via Marina and Tahiti Way. The existing view corridors, not including Bora Bora Way, amount to 21% of the parcel's water frontage (see Exhibit No. 5b). Under the LCP policy, if the parcel was being redeveloped, the minimum view corridor width would be 20 percent.

On Parcel 112, the applicant is proposing the demolition of an existing structure and construction of a 120-unit apartment complex, along with renovation of existing apartments and access improvements. On this site, because the applicant is proposing a new structure, the provision of a view corridor must be considered. The LCPA states that parcels located between the water and the first public road shall provide a view corridor from the road to the waterside. On this particular site, however, the first public road (Bora Bora Way) is located between the water and the parcel (on most other mole roads, the developable parcels are located between the road and water). The parcel fronts on Bora Bora Way and backs up against existing development on an adjacent parcel. Therefore, public views are from and along Bora Bora Way out to the water, and development on parcel 112 will not adversely impact views to the water. Therefore, the County found that since the development on parcel 112 would not impact views from Bora Bora Way, an additional view corridor was not required.

Furthermore, the applicant is proposing to provide a 4,800 square foot view park, with 147 lineal feet of water frontage, at the eastern end of the parcel and at the end of Bora Bora

Way (see Exhibit No. 5e). Under the certified LCP, a 500 square foot view park is required as an access improvement on parcel 112. The proposed park will provide additional viewing opportunities for pedestrians and motorists along Bora Bora Way. The existing park is private open space. Although it is currently open to the public, there are no signs indicating its availability to the public.

The LCP allows the County the discretion to determine if view corridors are physically feasible and practical for each parcel. On parcel 111 the County found that the view corridor will be reduced by 18 feet but views will be enhanced over the present obstructed views by improving the sight line and re-landscaping. Moreover, parcel 111 will maintain the remaining view corridors found throughout the parcel. On parcel 112 the County found that the proposed development did not adversely impact public views from the first public road and that the applicant will enhance public views through the proposed pedestrian walkway and the proposed view park. The Commission concurs with the County's analysis and finds that the approved project, as conditioned, will not adversely impact public views and is consistent with the view policies of the certified LCP.

LCPA Section 22.46.1140(B) requires that view and open space requirements be included as provisions of the lease to the property. Accordingly, the applicant's proposal to provide a view corridor, which satisfies the LCPA view requirements, must be included in the lease between the applicant and the County. To insure that the view requirement is included in the lease for as long as the permitted development exists, a special condition, requiring the applicant to record a lease restriction protecting the view corridor, is necessary. The lease restriction will insure that the applicant and his heirs, successors, and assigns, will include the view provisions in the lease from the County. Further, the condition requires the applicant to obtain the County's recordation of an agreement to require that any lessee of the property agree to comply with the view provisions. As discussed earlier, the County agreement is necessary because should the lease between the applicant and the county be terminated, the County could enter into a new lease with a new lessee. To comply with LCPA Section 22.46.1140, the new lease must reflect the view provisions.

Section 22.46.1140 (B) of the 1995 certified LCP states that lease provisions shall explicitly require provisions for view and open space areas. Therefore, in order for future lessees to know about this restriction, the Commission is recommending a special condition that the applicant will submit a final lease amendment that will require a public view corridor consistent with Section 22.46.1060(E)(c) of the certified LCPA to be maintained on the site. Only as conditioned, can the Commission find that the subject appeal is consistent with the relevant coastal public view provisions of Chapter 3 of the Coastal Act and the relevant provisions of the County's 1995 certified LCPA.

F. Natural Hazards

The Marina is built on dredge materials on saturated solids in a former wetland. Accordingly, the LCP requires development to investigate soils and to mitigate all impacts, or if feasible relocate. Section 22.46.1190 of the certified LCPA. requires mitigation of any and all impacts identified on the site.

The following 1995 certified LCPA policies are relevant:

22.46.1180 (4) Avoidance and mitigation of Geologic/geotechnical Hazards.

A Applicants and their engineers are responsible for determining and following all current requirements and recommendations of the Los Angeles County Department of Public Works, the California Division of Mines and Geology and the California Seismic Safety Board. New development shall utilize earthquake resistant construction and engineering practices. All new development over three stories in height shall be designed to withstand a seismic event with a ground acceleration of no less than 0.5g. Accordingly, all development applications shall include a detailed geotechnical report completed by a certified engineering geologist and a registered civil engineer experienced in the field of soil mechanics, and approved by the department of public works. A copy of the report, and its approval, shall be submitted. The report must include, but not be limited to:

A comprehensive geologic/soils analysis showing underlying geology, soil type and structure;

Delineation and evaluation of areas prone to fault rupture, secondary effects of seismic shaking, such as lateral spreading, settlement, liquefaction, etc. and excessive ground motion, due to seismic wave amplification;

Delineation of low-lying areas which may be inundated by tsunamis, floods or unusually high tides, or damaged by excessive wave action;

Recommendations for development in geologically stable areas, and restriction of development in unstable or unmitigated areas.

22.46.1190 Conditions of approval. A The following conditions shall be imposed, where applicable, for development in Marina del Rey.

1. In accordance with the geologic information submitted with the application for development, development shall occur in geologically safe areas. Any structure affecting personal safety (e.g., gas lines) shall not transect geologically unstable areas.

The proposed project is located on one of the mole roads that lead into the marina. The mole roadways, which are "man made", contain fill material that was placed when the marina was constructed between 1960 and 1961. According to the geotechnical report prepared by The J. Byer Group, Inc., approximately 3 to 14 feet of fill underlies the site. The fill consists of a mixture of sand, silty sand, sandy clay. Underlying the fill is natural alluvium. A uniform three to five foot layer of dense and with shell and gravel fragments underlies the study area at elevation -21.0 to -29.0 feet.

According to the County's records, there are two abandoned oil wells on the site. One well is located on the northeast corner of the intersection of Via Marina and Bora Bora Way. The second well is located south of the proposed apartment building. Both wells are located in proposed landscaped areas and access will be maintained.

According to information submitted to the County, both wells were abandoned according to current standards. The project was review by the California Department of Conservation's Division of Oil, Gas, and Geothermal Resources. The Division of Oil, and Geothermal Resources determined that the wells were abandoned to current standards (or equivalent). However, the Division of Oil, Gas and Geothermal Resources requires that a leak test be performed on the two wells prior to issuance of a building permit. To ensure that the abandoned wells meet the Division of Oil, and Geothermal Resources requirements, the applicant shall submit a final review and approval letter from the Division indicating that the applicant has complied with all requirements.

The LCP states that no potentially active earthquake fault traverses the marina, however, potential geologic hazards could result from seismic activity in surrounding areas. Hazards include ground shaking and liquefaction. Section 22.46.1180 (A)(4) requires that all new development over three stories be designed to withstand a seismic event with a ground acceleration of no less than 0.5 g, unless a reliable geologic survey indicates otherwise.

To address these potential hazards the County requires site specific geologic and soils studies including specific geotechnical studies related to mitigation of liquefaction and lateral spreading. According to the geotechnical report, peak ground accelerations at the site were estimated using a deterministic method and a computer program (EQFAULT ver. 2.2 developed by T.W. Blake. The average maximum credible site acceleration using attenuation relationships was estimated at 0.36g. Using probabilistic graphs for an exposure period of 50 years and for an event having a 10 percent probability of exceedance, the average ground acceleration is 0.38g. Based on this analysis a peak ground acceleration of 0.38g, which results from a 7.2 magnitude earthquake, was used for the liquefaction and ground deformation analyses. Based on the geotechnical analyses that was prepared for the project and reviewed by the County's Department of Public Works, the County accepted the use of geotechnical report's peak ground acceleration figure of 0.38g, consistent with the LCP.

The County found that the information in the geologic report regarding ground acceleration was adequate and that using a ground acceleration of .38g rather than 0.5g was appropriate for this project given the location and size of the building.

The report concludes that construction of the proposed project is feasible from a geotechnical engineering standpoint provided the recommendations are incorporated into the design plans. Recommendations include removing fill and disturbed alluvium and replacing it with compacted fill; use of mat foundations to spread the weight of the building and concentrated foundation loads uniformly to the soil; design of floor slabs and concrete decking; drainage, and waterproofing.

The County's 1995 certified LPCA requires geology/Soils recommendations for development in geologically stable areas, and restriction of development in unstable or unmitigated areas. Therefore, the Commission finds that in order to be consistent with the applicable certified LPCA provisions, the applicant must conform to the recommendations contained in the aforementioned soils and geology reports. In addition, the Commission is requiring the applicant to submit final plans to be reviewed by the County Engineer. The Commission further finds that the proposed residence, as conditioned to conform to the consultant's geology and soils recommendations, will minimize risks of developing in this area that may occur as a result of natural hazards. Finally, the Commission finds that the applicant must also record a lease restriction assuming the risk of developing in this hazardous area, and waiving the Commission's liability for damage that may occur as result of such natural hazards. This is necessary because the design is a result of a study for which the applicant and its engineer are responsible. Seismic hazards, including geologic/liquefaction hazards cannot be predicted with certainty, so the applicant and future owners must be put on notice that the Coastal Commission is not liable for damages resulting from geologic conditions. Only as conditioned, can the Commission find that the proposed project is consistent with the geologic provisions of the certified LPCA.

G. Cultural Resources

The 1995 certified LPCA requires that the Office of State Historic Preservation and the Native American Heritage Commission be notified. The certified LPCA also requires the County to approve archaeological resources are discovered, and to require that development be carried out consistent with the coastal program and with the provisions of State law that protect archeological resources. This will ensure that the preservation of cultural resources is coordinated with the coastal permit process and that recovery plans are duly noticed as required by the Coastal Act. The certified LPCA provides that potential cultural resource impacts must be reviewed through the County's environmental review process and that appropriate environmental documentation and mitigation measures shall be incorporated as conditions of any approved coastal development permit.

22.46.1190.5. Protection of Cultural Heritage Resources. Cultural resources located shall be identified and protected. All applications that include disturbance of native soils or vegetation, including but not limited to excavation, pile driving and grading shall include:

a. Report by a qualified archaeologist. The archaeology report shall comply with the guidelines of the State Office of Historical Preservation. Mitigation measures suggested in the report, and approved by the department of regional planning, shall be undertaken. For the purpose of this report, a "qualified archaeologist" is a person who has been certified by the Society of Professional Archaeologists and who has a minimum of three years experience investigating and interpreting sites in Southern California. A copy of the report, signed by said qualified archaeologist, shall be submitted with the application. In accordance with the findings set forth in the archaeology report submitted with the development application, cultural resources shall be collected and maintained at the Los Angeles County Natural History Museum or other site acceptable to the State Historic Preservation Officer. The department of regional planning shall be notified if any resource is discovered during any phase of development.

b. Notification of the Office of State Historic Preservation and the Native American Heritage Commission of the location of any proposed disturbance of native soils or vegetation. The notification shall include the proposed extent of the grading and dates on which the work is expected to take place.

c. Acknowledgment of receipt of Sections 7050.5 of the Health and Safety code, section 5097.94 of the Public Resources code and Section 5097.88 and 5097399 of the Public Resources code. The applicant shall place a note on the project plans summarizing the procedures that apply in the event of discovery of Native American remains or grave goods.

The county shall approve archaeological recovery programs as permit amendments. The standard of review is the archaeological recovery program's consistency with this Specific Plan and with other provisions of state law.

Because the site is fully developed and located on approximately fifteen feet of fill, no surface traces of archeological or paleontological resources were likely to be present. Therefore, the initial archeological survey was waived. However, all fill and loose alluvium material will be removed. It is possible that such grading activity may expose previously unknown archeological resources. Therefore, the Commission is requiring a special condition that the applicant submit evidence of notification to the Office of State Historic Preservation and the

Native American Heritage Commission of the location of the proposed grading, the extent of the grading proposed, and the dates on which the work is expected to take place and also is requiring the applicant to acknowledge receipt of copies of laws that protect cultural resources. As conditioned, the Commission finds that the proposed development is consistent with cultural resources policies of the 1995 certified LPCA.

H. Infrastructure

The provisions of the 1995 certified LPCA ensures that public infrastructure improvements are adequate to serve development. The certified LPCA also requires that all new development to conserve water and to prevent adverse impacts from runoff into the marina. The certified LPCA provisions ensure that roadways required for fire access are also available for pedestrian use and enjoyment. The policies ensure that the repair, maintenance and/or replacement of public works facilities will not adversely impact public access to the Marina or coastal resources in the area.

22.46.1170 Infrastructure. Beyond the circulation system, other major infrastructure systems serving the Specific Plan Area include sewer, water, storm drains and utilities.

A. Sewer. The county of Los Angeles maintains a contractual agreement with the city of Los Angeles to provide sewer services for the Marina area. The purchase of flow rights includes the use of the sewers and pumping system as well as treatment at the Hyperion Plant near Imperial Highway. Maintenance of the sanitary sewers within the Marina is the responsibility of the department of public works, waterworks and sewer maintenance division. There is currently sufficient sewage capacity to handle only a portion of the development permitted by this Specific Plan.

Appropriate phasing of new development may be necessary because of capacity limitations at the Hyperion Plant. Proof of adequate sewer and waste treatment capacity for new development will be required per the provisions of subsection A12 of Section 22.46.1180.

B. Water. The Marina purchases its water from the Los Angeles County Waterworks District No. 29. Current water supplies may be adequate for existing and proposed developments in the existing Marina. As part of the application for development, the applicant shall provide evidence of compliance with all requirements of the Department of Public Works, including payment of required fees and participation in all districts required at the time the application is filed. The required improvements will be determined when applications for development or subdivision are submitted to the Department of Regional Planning and reviewed by the Department of Public Works and the Fire Department. The application for the coastal development permit shall include a

method of funding and schedule of construction of any facilities required by the Department and/or the Fire Department to serve the proposed development.

Water service may alternatively be provided by connection to facilities operated and maintained by the City of Los Angeles, Department of Water and Power. Proof of adequate water capacity for new development will be required in Subsection A12 of Section 22.46.1180.

C. Storm Drains.

- 1. The existing Marina is served by storm drains which deposit flows into the Marina basin. The drains are expected to be adequate to accommodate future development. To reduce the amount of pollutants entering the Marina from Ballona Creek, the department of public works will implement appropriate best management practices within the Ballona Creek watershed, as required by county NPDES municipal storm water permit.*
- 2. Unless otherwise required by the Regional Water Quality Control Board and the County Flood Control District, the storm drain emptying into Basin H will be capped and diverted into Ballona Creek or another area of the Marina.*

D. Solid Waste. Lessees in the existing Marina contract with five private companies for solid waste disposal. These companies use existing commercial landfills as available.

E. Utilities.

- 1. Electricity in the Marina area is provided by Southern California Edison. The present substation, located on Fiji Way, can accommodate moderate additional load. If development generates demand beyond capacity, a new substation will be required.*
- 2. Natural gas for the Marina is supplied by the Gas Company. Supplies for existing and future development are expected to be adequate.*
- 3. General Telephone and Electronics provides telephone service to the Marina. Central office lines are currently in place to serve the area, and they have sufficient capacity to serve future needs.*

F. Fire Safety Services. A new fire station and support facilities may be required in conjunction with development anticipated in this LCP. The size and location of new fire facilities shall be determined after Fire Department study and evaluation for optimal response and service. As part of the application for development, the applicant shall provide evidence of compliance with all design requirements of the Fire Department and evidence of participation in any special district established for fire protection.

22.46.1060 F. Fire Safety Standards. The following standards shall apply to all new development and renovation or expansion of existing development, where applicable.

1. Sprinklers. All new development shall be required to provide fire sprinklers consistent with the specifications of the Fire Department. Further, remodeling or expansion projects involving 50 percent or more of the existing floor area of said project shall be subject to review by the Fire Department for sprinkler requirements.

2. Multi-story Buildings. Where a new building exceeds three stories or 35 feet in height, the following site design standards shall apply:

a. Emergency access (or clear zones) on the lateral sides of all multi-story buildings shall be required to be a width of 28 feet, subject to Fire Department determination. A lesser width may be approved where the Fire Department finds such width provides sufficient emergency access; a greater width may be approved where the Fire Department finds such width to be necessary for the provision of adequate emergency access. This emergency access requirement may concurrently apply to twenty-foot wide pedestrian promenades consistent with subsection (b), below. Where a building is not more than ten (10) feet from the edge of a road, the roadway may serve as the required access area for that side of the building. Clear zones provided on the sides of buildings may count toward any linear view corridor requirements for buildings located between the first public road and the sea; and

b. The pedestrian promenade and fire department access road may be used for dual functions provided that the fire department maintains unimpeded access on no less than twenty feet of all pedestrian promenades at all times. On mole roads shall these promenades shall be no less than 28 feet wide to allow benches, trash containers, shade structures and other pedestrian amenities on the seaward most 8 (eight) feet of the promenade. The remainder of the promenade shall conform to fire access road requirements and shall be a minimum of 20 feet wide clear to the sky, with no benches, planters or fixed objects. As an alternate configuration, the Director, in conjunction with the Fire Dept., may approve a twenty-foot wide clear pedestrian/fire access road with a series of ten foot-wide improved view points no less than 150 feet apart. These view

points shall be located adjacent to the bulkhead line. In either configuration, turn radii shall be approved by the Fire Department.

The applicant has not yet provided evidence of public service capacity to serve the new development. The applicant has also not provided evidence of approval by the Fire Department and Public Works of its proposed fire accesses and storm water drains. The certified LCPA requires evidence of compliance with all infrastructure requirements of the Departments of Public Works and the Fire Department including payment of all required fees and participation in all district programs. The required improvements are determined by the Department of Regional Planning, Department of Public Works and the Fire Department. Therefore, the Commission is imposing special conditions requiring the applicant to submit final plans, regarding infrastructure, to the appropriate County Departments, for their review and approval, as required in Section 22.46.1170 of the 1995 certified LCPA. Only as conditioned, can the Commission find that the proposed development is consistent with the applicable infrastructure provisions of the certified LCPA.

I. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect which the activity may have on the environment.

As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.